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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,882	12/16/2003	David L. Poole	87286D1	5731

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EXAMINER

NGUYEN, ANTHONY H

ART UNIT	PAPER NUMBER
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2854

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/736,882

Applicant(s)

POOLE, DAVID L.

Examiner

Anthony H. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 23-30, 34 and 35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 23-30, 34 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-4, 23-30, 34 and 35 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. 6,848,845. Although the conflicting claims are not identical, they are not patentably distinct from each other because : the structure claimed in the present

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application differs from the structure claimed in the patent only by the different claimed language.

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 23-27, 34 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Hamisch et al. (US 5,772,341).

With respect to claims 1 and 4, Hamisch et al. teaches a ribbon cartridge 24 having a housing 25 (Hamisch et al., Figs. 2 and 3), a hollow core C1 for receiving a roll of donor ribbon (IR), a clutch 144 having a friction component 145 that engages with the inner surface 146 of the core C1, a resilient component located between the friction component and the one end of the clutch which is externally constrained by a surface 134 of a restraining structure 136, 132. The restraining structure also supports the core as shown in Figs. 12 and 13 of Hamisch et al. With respect to claims 23-27 and 35, Hamisch et al. teaches the friction component 145 and the resilient component (between the surfaces 134 and 140) which are parts of a common member 144 (Hamisch et al., Fig. 12, col. 5 lines 64-66), the restraining structure 136 which constitutes a support independent of the core C1 and the clutch 144, the roll of ribbon which is supported on a shaft integrated by a shaft member 132 and a shaft 137

(Hamisch et al., Fig.11, col.5 line 51) and the common member having a longitudinal opening 145' which receives the shaft.

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) a patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-3 and 28 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Hamisch et al. (US 5,772,341) in view of McTaggart (US 5,170,956).

Hamisch et al. teaches all that is claimed, except the common member which is made of elastomer material. McTaggart teaches the use of a rubber ball 44 made of elastomeric material which functions as a clutch that releases of energy stored in the elastomeric material. It would have been obvious to one of ordinary skill in the art to modify the ribbon cartridge of Hamisch et al. by substituting the elastomeric material as taught by McTaggart for maintaining of optimal friction between the clutch and the inner surface of the ribbon core in place of the clutch 144 of Hamisch et al. Also, note that the selection of a desired material such as a well-known elastomer would be obvious through routine experimentation in order to get best possible friction between the surfaces of the inner core of the ribbon and the surface of the clutch.

Response to Arguments

Applicants' arguments filed on March 21, 2005 have been fully considered but they are not persuasive of any error in the above rejections.

Applicant argues that the double patenting is improper because the instant applications' claims direct to the ribbon cartridge which includes a housing, a clutch and a restraining structure.

However, as explained above, applicant uses the different claimed language in the present application for the same structure as recited in the patent. For examples, claim 1 of the patent recites the resilient structure which stores torsional energy and serving as a friction clutch (the housing and the restrain are implied in the claim); claim 13 of the patent recites a web cartridge having a housing which supports a hollow core and claim 7 recites a constrain for holding the end of the resilient structure. Therefore, the double patenting rejection is proper.

Applicant argues that Hamisch et al. does not teach or disclosure a resilient structure which stores energy when the ribbon is released or backfed.

Note that Hamisch et al. teaches clearly the sleeve member or resilient structure 144 which maintains tension in the in ribbon (Hamisch et al., claim 1). The resilient structure of Hamisch et al., which is compressed to provide braking force or drag, is inherently storing energy when the ribbon is released or backfed to at least some extent.

Applicant argues that the combination of Hamisch et al. and McTaggart fail to teach or disclose any structure to store and release torsional energy.

As discussed above, Hamisch et al., teaches the resilient structure which stores energy when the ribbon is released or backfed. McTaggart teaches the use of elastomeric material which functions as a brake or a clutch that "spring back into its normal shape" (McTaggart, col.2, lines 61 and 62) or that releases of energy stored in the clutch. The combination of Hamisch et al. and McTaggart renders obvious the structure as recited in claims 2,3 and 28. Thus, the selection of a desired resilient material or elastomeric material is not unobvious in the sense of 35 U.S.C. 103.

Conclusion

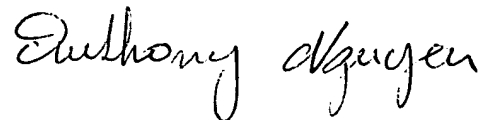
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Nguyen whose telephone number is (571) 272-2169. The examiner can normally be reached daily from 9 AM to 5PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld, can be reached on (571) 272-2168.

The fax phone number for this Group is (703) 872-9306.

A handwritten signature in cursive script that reads "Anthony Nguyen".

Anthony Nguyen
5/26/05
Patent Examiner
Technology Center 2800